IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 2902 OF 2006

WITH

FIRST APPEAL NO. 2908 OF 2006

Mr.Vasu Ponkra Shetty. ... Appellant.

V/s.

Municipal Corporation of
Gr.Mumbai and another. ... Respondents.

S.M.Sakhardande i/b. D.S.Sakhalkar
for the appellant.

J.J.Xavier for respondent No.1.

Nusral Shah with Vintor Ahmed, A.K.Gupta and
Fama Almeida i/b. M.M.Shah for respondent No.2.

CORAM: D.B.BHOSALE, J.

DATED: 29th November 2006.

P.C. :

. Heard learned counsel for the parties.

2. The learned counsel for the appellant, on instructions from the son and wife of the appellant, seeks permission to withdraw the appeal unconditionally. He submits that a reasonable time may be granted to the appellant to apply seeking regularisation of the disputed structure.

3. Since the appellant is not keeping well his son Mr.Akshay Vasu Shetty and wife Mrs.Geeta Vasu Shetty have filed affidavits seeking permission of the Court to withdraw the appeal unconditionally and liberty to apply for regularisation of the disputed structure. Both the affidavits are taken on record and marked 'X' and 'X-1' for identification. Considering the overall facts and circumstances of the case and the affidavits filed by the son and wife of the appellant, I am satisfied that the following order shall meet the ends of justice:

ORDER

(a) If the appellant and/or his son or wife make an application for regularisation to the competent authority/ respondent No.1, within a period of twelve weeks from today, the same shall be decided within a period of twelve weeks therefrom. The decision on the application shall be communicated to the appellant and/or his son or wife at the address mentioned in the cause title within one week from the date of decision.

(b) If the application for regularisation, as aforestated, is made within the period of twelve weeks from today, for a period of 28 weeks from today, the disputed structure shall not be demolished by the respondent- Corporation. However, if the application is not made within the stipulated time, the respondent-Corporation will be free to take action of demolition.

(c) The appellant is also directed to file undertaking in terms of the affidavits filed by his son and wife within a period of 12 weeks from today.

(d) The appellant shall furnish copy of their application seeking regularisation to respondent No.2 within one week from the date of filing such application. The respondent No.2 will have a liberty to seek audience before the competent authority. It will also be open for respondent No.2 to file written objections, if any, within a period of two

weeks from the date of receipt of the application of the appellant seeking regularisation of the suit structure.

(e) Mr.Shah, learned counsel for respondent No.2, on instructions from his client, submits that respondent No.2 shall abide by the orders passed by the competent authority on the application seeking regularisation of the suit structure and shall not press execution of the decree dated 26th July 2006 in L.C.Suit No.6296/2001. The statement made is accepted. In view of the statement made by respondent No.2, Mr.Sakhardande, learned counsel for the appellant does not press other Appeal No.2908/2006.

4. In the circumstances, both the appeals stand disposed of as withdrawn in the aforesaid terms.

(**D.B.BHOSALE, J.**)